

AO88. (Rev. 12/06) Subpoena in a Civil Case

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
JUL 19 2010Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

Dallas

Motion Picture Association of America

SUBPOENA IN A CIVIL CASE

V.

DMCA Designated Agent or Network Administrator

Case Number:¹**3-10MC-091-L**TO: DMCA Designated Agent or Network Administrator,
1333 Stemmons Freeway, Suite #110
Dallas, TX 75027

- ☐
- YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☐
- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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- ☒
- YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Information, including name, address, telephone number and e-mail address, sufficient to identify the operator of the website at the IP addresses reflected on ATTACHMENT A at time reflected on ATTACHMENT A.

PLACE	DATE AND TIME
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- ☐
- YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES Lehtola & Cannatti PLLC, 5001 Spring Valley Road, Suite 400 East, Dallas, Texas 75244	DATE AND TIME 7/29/2010 10:00 am
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) <i>Dawn D. Burton</i>	DATE JUL 19 2010
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Clerk's Office, U.S. District Court for the Northern District of Texas, 1100 Commerce Street, Room 1452
Dallas, TX 75242

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

ATTACHMENT A TO SUBPOENA

67.15.237.77 on July 15, 2010 at 12:46 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 12:59 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:01 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:19 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:57 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:02 PST [GMT-8]
67.15.237.100 on July 15, 2010 at 14:18 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:26 PST [GMT-8]

ATTACHMENT C

DECLARATION OF DOMINICK BATTIATO

LOS ANGELES, CA)
)
)

I, Dominick Battiato, the undersigned, declare that:

1. I am an Internet Investigator for the Motion Picture Association of America ("MPAA"). I represent the MPAA and its member studios ("MPAA member studios"). The MPAA member studios are the owners and exclusive licensees of copyrights in and to a significant number of motion pictures and television shows. I am authorized to act for the MPAA and its member studios on matters involving the infringement of their copyrighted motion pictures and television shows.

2. Pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(h), the MPAA member studios are requesting the attached proposed subpoena that would require The Planet, an Internet service provider, to disclose the identity, including the name, address, telephone number, and e-mail address, of the users operating at the following Internet addresses:

67.15.237.77 on July 15, 2010 at 12:46 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 12:59 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:01 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:19 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:57 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:02 PST [GMT-8]
67.15.237.100 on July 15, 2010 at 14:18 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:26 PST [GMT-8]

3. The purpose for which this subpoena is sought is to obtain the identity of the individuals assigned to these IP addresses who are infringing the copyrights of MPAA's member studios. This information will only be used for the purposes of protecting the rights granted to the MPAA member studios, the motion picture and television show copyright owners, under the Copyright Act.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information or belief.

Executed in Los Angeles, CA, on July 16, 2010.


Dominick Battiato

LEHTOLA & CANNATTI

Providence Tower East
5001 Spring Valley Road, Suite 400
Dallas, Texas 75244
(972) 383-1515 Ph
(866) 383-1507 Fx
www.lc-lawfirm.com

Patricia B. Lehtola
PLehtola@LC-LawFirm.com

Direct Telephone:
(972) 383-1518

July 19, 2010

Clerk of Court
U.S. District Court for the
Northern District of Texas
1100 Commerce Street, Room 1452
Dallas, TX 75242

Dear Clerk of Court:

We are writing on behalf of the Motion Picture Association of America ("MPAA") and its member studios ("MPAA member studios"). We are writing to obtain a subpoena issued by the Clerk of this Court pursuant to 17 U.S.C. § 512(h).

The MPAA member studios are the owners and exclusive licensees of copyrights in and to a significant number of motion pictures and television shows. The MPAA member studios actively seek to protect their rights against individuals using the Internet to infringe their copyrights. We have uncovered a large-scale copyright infringer operating a website, Allostreaming.com, at the IP address 67.15.249.70 (the "infringing website"). The infringing website links to other websites operated by The Planet customers: www.alloseven.com, at the IP address 67.15.237.77, www.alloshare.com, at the IP Address: 67.15.237.88, www.allosharing.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.allomystreaming.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.megalivefilms.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.likestreaming.com (which redirects to www.AlloShare.com), at the IP Address 67.15.237.88, www.alloshowtv.com, at the IP Address 67.15.237.100, and www.67.15.249.88/series/index.php (which redirects to www.AlloShare.com), at the IP Address 67.15.237.88 (collectively, the "linked infringing websites"). From the linked infringing websites, users can stream copies of hundreds of the MPAA member studios' copyrighted works, in violation of federal copyright law. Publicly available information indicates that these websites are being hosted on the facilities of The Planet, a Dallas-based Internet service provider ("ISP").

The MPAA member studios can learn the identities of those behind these infringing websites only by obtaining such information from the infringers' ISP. The Digital Millennium Copyright Act of 1998 ("DMCA") provides a method for expeditiously obtaining such information from an ISP.

Pursuant to 17 U.S.C. § 512(h), a copyright owner or its agent may obtain a subpoena ("DMCA subpoena") from the Clerk of any United States District Court for the purpose of seeking the

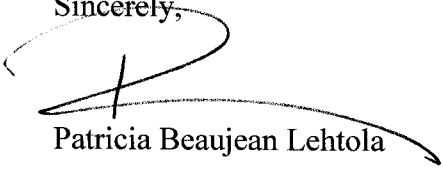
identity of an alleged copyright infringer. Section 512(h)(4) provides that “the clerk shall expeditiously issue and sign the proposed subpoena” upon presentation of three documents in proper form: (i) a copy of a DMCA notice of copyright infringement, § 512(h)(2)(A); (ii) a proposed subpoena, § 512(h)(2)(B); and (iii) a sworn declaration meeting the requirements of § 512(h)(2)(C).

On behalf of the MPAA member studios, we are seeking to obtain a DMCA subpoena, issued by the Clerk of this Court, to serve on The Planet to learn the identity of the individuals behind the infringing website and the linked infringing websites. With this letter, we are providing a DMCA notification, a proposed subpoena, and a declaration satisfying the requirements of the DMCA.

As required by the DMCA, the notification specifies a representative list of the copyrighted works that are the subject of infringing activity on the ISP’s network, identifies the allegedly infringing material to be removed, and provides the ISP with information sufficient to locate the material. The declaration attests, on penalty of perjury, that the purpose of the subpoena is to obtain the identity of alleged copyright infringers and that information obtained in response to the subpoena will be used only to protect rights under the Copyright Act.

Because of the irreparable harm to the MPAA member studios by ongoing copyright infringement and the DMCA’s command that DMCA subpoenas be issued and complied with “expeditiously,” we request that the Clerk’s office issue this subpoena as soon as possible. If you have any questions, please do not hesitate to call me at (972) 383-1515.

Sincerely,



Patricia Beaujean Lehtola

ATTACHMENT A

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

15301 VENTURA BOULEVARD, BUILDING E
SHERMAN OAKS, CALIFORNIA 91403



Truc-Linh N. Nguyen
Counsel
Content Protection

PHONE: (818) 935-5813
FAX: (818) 285-4407
E-MAIL: truc_nguyen@mpaa.org

July 16, 2010

Re: DMCA Notification of Copyright Infringement at IP addresses:

67.15.237.77 on July 15, 2010 at 12:46 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 12:59 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:01 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:19 PST [GMT-8]
67.15.237.70 on July 15, 2010 at 13:57 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:02 PST [GMT-8]
67.15.237.100 on July 15, 2010 at 14:18 PST [GMT-8]
67.15.237.88 on July 15, 2010 at 14:26 PST [GMT-8]

Dear DMCA Designated Agent or Network Administrator:

We are contacting you on behalf of the Motion Picture Association of America ("MPAA") and its member studios ("MPAA member studios"). The MPAA member studios are the owners and exclusive licensees of copyrights in and to a significant number of motion pictures and television shows. Under penalty of perjury, we submit that we are authorized to act on behalf of the MPAA and the MPAA member studios in matters involving the infringement of their motion pictures and television shows, including enforcing their copyrights and common law rights on the Internet.

We believe customers of The Planet, whose websites are hosted by The Planet, are engaged in extensive copyright infringement of motion pictures and television shows whose copyrights are owned by or exclusively licensed to the MPAA member studios. A customer is operating a website, Allostreaming.com, at the IP address 67.15.249.70 (the "infringing website"). The infringing website links to other websites operated by The Planet customers: www.alloseven.com, at the IP address 67.15.237.77, www.alloshare.com, at the IP Address: 67.15.237.88, www.allosharing.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.allomystreaming.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.megalivefilms.com (which redirects to www.AlloMovies.com), at the IP Address 67.15.237.70, www.likestreaming.com (which redirects to www.AlloShare.com), at the IP Address 67.15.237.88, www.alloshowtv.com, at the IP Address 67.15.237.100, and www.67.15.249.88/series/index.php (which redirects to www.AlloShare.com), at the IP Address 67.15.237.88 (collectively, the "linked infringing websites"). From the linked infringing websites, users can stream copies of hundreds of the MPAA member studios' copyrighted works, in violation of federal copyright law. We have attached documentation concerning the above-described infringement including a representative list of motion pictures that are being infringed and information sufficient to enable you to

July 16, 2010

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identify the website operators. We have a good faith belief that the above-described activity is not authorized by the copyright owners, their agent, or the law.

We are asking you for your immediate assistance in stopping this unauthorized activity. You should understand that this letter constitutes notice to you that these website operators may be liable for the infringing activity occurring on your system or network. In addition, if you ignore this notice, you and/or your company may also be liable for any resulting infringement. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained. We assert that the information in this notification is accurate, based on the information available to us.

Thank you in advance for your prompt assistance in this matter. If you have any questions, please feel free to contact me via e-mail at truc_nguyen@mpaa.org or via telephone at 818-935-5813.

Sincerely,

A handwritten signature in dark ink, appearing to be 'le' followed by a long horizontal line.

Truc-Linh N. Nguyen

Attachments

Infringement on Website Allostreaming.com at IP Address 67.15.249.70

Infringing Link on Allostreaming.com	MPAA Member Motion Picture or TV Show	Representative Infringing URL on Linked Website
<p>“AlloSeven (Films, Series & Animes)”</p> <p>www.alloseven.com IP Address: 67.15.237.77 7/15/10 12:46 PST [GMT-8]</p>	<p>Minority Report</p>	<p>http://www.alloseven.com/?v=31URAO0WIB&k=films</p>
<p>“AlloShare (Films en Streaming)”</p> <p>www.alloshare.com IP Address: 67.15.237.88 7/15/10 12:59 PST [GMT-8]</p>	<p>The Hunt for Red October</p>	<p>http://www.alloshare.com/viewf.php?id=CYIR22N90&stream=http://www.megavideo.com/?v=6HKQ6EXU&streamId=6HKQ6EXU</p>
<p>“AlloSharing (Films en Streaming)”</p> <p>www.allosharing.com (redirects to www.AlloMovies.com) IP Address: 67.15.237.70 7/15/10 13:01 PST [GMT-8]</p>	<p>Predators</p>	<p>http://www.allomovies.com/viewf.php?id=71Y01YVU5NTQASN0&stream=http://www.megavideo.com/?v=4MAJ9VTO&streamId=4MAJ9VTO</p>
<p>“AlloMyStream (English Movies)”</p> <p>www.allomystreaming.com (redirects to www.AlloMovies.com) IP Address: 67.15.237.70 7/15/10 13:19 PST [GMT-8]</p>	<p>The A-Team</p>	<p>http://www.allomovies.com/viewf.php?id=QL974KMA8R&stream=http://www.megavideo.com/?v=UALXQW79&streamId=UALXQW79</p>
<p>“MegaLiveFilms (Films sur MegaUpload)”</p> <p>www.megalivefilms.com (redirects to www.AlloMovies.com) IP Address: 67.15.237.70 7/15/10 13:57 PST [GMT-8]</p>	<p>Toy Story 2</p>	<p>http://www.allomovies.com/viewf.php?id=CFJRHDHYZD6LSA22&stream=http://www.megavideo.com/?v=A6D2YWH5&streamId=A6D2YWH5</p>

"LikeStreaming.com" www.likestreaming.com (redirects to www.AlloShare.com) IP Address: 67.15.237.88 7/15/10 14:02 PST [GMT-8]	Baby Mama	http://www.alloshare.com/viewf.php?id=KMA8H2ON7Z&stream=http://www.megavideo.com/?v=7NKK1Q6M&streamId=7NKK1Q6M
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<p>"AlloShowTV.COM"</p> <p>www.alloshowtv.com IP Address: 67.15.237.100 7/15/10 14:18 PST [GMT-8]</p>	<p>Happy Town (TV), Pilot</p>	<p>http://www.alloshowtv.com/series/view_s.php?idep=9o112211874l28nn&cat=S&id=9RKDU00827PS1B6</p>
<p>"Serveur S2"</p> <p>www.67.15.249.88/series/index.php (redirects to www.AlloShare.com) IP Address: 67.15.237.88 7/15/10 14:26 PST [GMT-8]</p>	<p>Cadillac Records</p>	<p>http://www.alloshare.com/viewf.php?id=6NBHVY07LO&stream=http://www.megavideo.com/?v=4RVX00QE&streamId=4RVX00QE</p>

ATTACHMENT B